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THE BERLIN QUESTION

April 1, 1960

- A. Advantages and Disadvantages of Seeking an Agreement on Berlin
- B. Advantages and Disadvantages of Possible New Arrangements for Berlin
- C. Minimum Requirements for a Modus Vivendi in Berlin
- D. Conclusions

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A. ADVANTAGES AND DISADVANTAGES OF SEEKING AN AGREEMENT ON BERLIN

1. Introduction

Berlin cannot perform its natural role as the capital of Germany until the Four Powers can agree on reunification. Until then, the Western Powers can accept without change the existing situation, under which West Berlin has achieved a measure of prosperity. It is the Soviet Union who have proposed change. The Soviet Union may now be so committed to signing a separate peace treaty that it may do so whether or not a new agreement is made on Berlin. The first question for the Western Powers to consider is whether the balance of advantage lies in seeking an agreement on Berlin, or in resisting Soviet attempts to modify the existing situation.

2. Advantages of Seeking an Agreement

The general advantages to the West of reaching agreement on Berlin are:

- a) Berlin is situated over 100 miles the wrong side of the Iron Curtain. Communication between Berlin and the West is always under the threat of Soviet interference or disruption. This situation can only be improved with Soviet consent.
- b) An agreement would give renewed validity to the Western position and would enable the West to defend that position more effectively. The Allied position in Berlin, however sound legally, is based on occupation rights acquired in 1945 in circumstances very different to those of today. Many people regard this as an anachronism and are thus susceptible to Soviet propaganda which plays on this theme.
- c) The Soviet Union would hesitate to risk damaging their reputation in the world by open breach of an agreement, at least until they could claim that it had become obsolete. The period during which the Soviet Union might observe an agreement could be sufficiently long for progress to be made on other world problems, and for moderating influences to gain ground in USSR and the Satellites.
- d) To the extent that an agreement imposed obligations on the Soviet Union, they would be denied some of the pressures which they are now free to use on Berlin and on the Allied position there. In particular, an agreement which

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which provided for continuing access on terms acceptable to the West would draw the sting from the Soviet threat to sign a peace treaty with East Germany.

e) The Western Powers cannot prevent the USSR from abandoning their occupation rights in Berlin. After withdrawal, unless it takes place by agreement with the Allies, the Soviet Union would be less inhibited from exerting pressures (either directly or through the "GDR") and the Allies would be less able to resist them. The effect of these pressures on the economy of West Berlin could be particularly severe. Such a withdrawal would create a situation of friction and tension not only in Berlin but generally.

f) Resistance to Soviet attempts to modify the existing situation would involve a series of tests and challenges and could, inadvertently or otherwise, lead to war.

g) An attempt to reach an agreement on Berlin would be regarded by Western opinion as a better test of Soviet intentions than insistence on maintaining the existing situation. If it proves true that Russian designs on West Berlin can only be opposed by force, the Allied public would be more likely to be ready to face the consequences if an attempt to make an agreement had been made, and world opinion would be more sympathetic.

3. Disadvantages of Seeking Agreement

The general disadvantages of seeking an agreement are these:

a) The Soviet Union may be bluffing when they threaten to sign a peace treaty. Such a treaty would in itself bring them little advantage which they do not enjoy already. It is the threat of doing so which is of advantage to them in their relations with the West. The card may be more valuable in their hand than in play.

b) The aim of the Soviet Union is to undermine the Allied position in Berlin. It would therefore be difficult to conclude an agreement as favorable to the West as the situation existing up to now.

c) In order not to be seriously hampered in their designs on Berlin, the Soviet Union might only be prepared to enter an agreement of very short duration.

d) If the Soviet Union obtained an agreement which they considered assisted them in their aims, they would register a success for their policy of ultimatums and threats and would be encouraged to pursue that policy with the West in the future.

e) Any agreement which could be negotiated might be regarded by world opinion as evidence of a shift in the balance of power to the advantage of the

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f) Eastern European opinion would regard an agreement which could be negotiated as a sign that the West was prepared to come to an accommodation with the Soviet Union.

g) The mere discussion of any arrangement which would put into question the continued validity of Allied rights in Berlin would raise the question whether the occupation regime was anachronistic and would have an adverse psychological effect on the population of Berlin and on those who do business with Berlin.

h) It is certain that any negotiation will be exploited by the Communists to attempt to force de facto recognition of the "GDR".

i) It would be extremely difficult to spell out any proposal for a new arrangement for Berlin in adequate detail to meet the needs of so complex a situation.

j) The Soviet Union's bad record of violations of earlier agreements on Germany and Berlin raises the question whether any new agreement would be enforceable or durable.

B. ADVANTAGES AND DISADVANTAGES OF POSSIBLE NEW ARRANGEMENTS FOR BERLIN

1. Introduction

Assuming that the decision is taken that the Western Powers should be prepared to make an agreement or arrangement with the Soviet Union about Berlin, it is next necessary to consider what should be put forward or what could be accepted. The possible new arrangements fall into two genera: (1) arrangements which would substitute some new status for the occupation regime in Berlin and (2) arrangements which would be based upon the occupation regime. The latter can be divided in turn into two species: (a) agreements which would revise the basic Four-Power agreements while providing a basis for the continued presence of Western forces and (b) agreements which would modify or confirm certain aspects of the existing situation without changing the basic arrangements of the occupation.

The advantages and disadvantages of a new arrangement must be examined separately according to whether the new arrangement provides for a new status, a new contractual basis for the occupation, or modifications of the existing situation without changing the basic arrangements of the occupation regime.

2. Change in Berlin's Status

a) Possible Proposals

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Apart from the incorporation of Berlin into the "GDR" and the Soviet "free city" proposal, which are so obviously undesirable as to require no further discussion, the broad possibilities for terminating the occupation and negotiating for a new status for Berlin would be:

i) Incorporating Berlin fully into the Federal Republic in which case the Allied forces could remain on the basis of the Contractual and Status of Forces Agreements or could be supplanted by the Bundeswehr;

ii) Putting Berlin under the authority and protection of the United Nations, in which case Allied forces, if they remained, would merely constitute or be a part of a United Nations security force; and

iii) Establishing a sovereign "free city" of West Berlin in which Allied troops would remain as a security force.

b) Advantages of Changing the Status

i) The termination of the occupation regime, and especially the removal of the Allied forces, might reduce in the Soviets' eyes the urgency of new efforts to undermine Berlin's freedom.

ii) The United Nations solution might permit the maintenance of the unity of Berlin.

iii) Uncertainties about access might be eliminated by spelling out conditions of transit through the Soviet Zone.

c) Disadvantages of Changing the Status

i) The occupation regime which, whatever its faults, has maintained West Berlin's security and freedom through 15 years of Soviet harassment would be replaced by a new status the effectiveness of which would be unproven.

ii) The Federal Republic or the United Nations would probably be under constant pressure as a result of its Berlin responsibilities to give "de facto recognition" to the "GDR"; it is questionable whether either would be able to resist these pressures as well as the Western occupying powers.

iii) The Federal Republic solution would probably result in the ending of the remaining freedom of circulation in Berlin.

iv) The removal of the Allied forces would nullify the "NATO guarantee" for Berlin unless they were replaced by forces from other NATO countries. In any case, it would reduce the credibility of such a guarantee.

v) Insofar as the United Nations solution involved breaking existing ties between Berlin and the Federal Republic, it would be a step away from German reunification.

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vi) The United Nations solution would make Berlin's fate dependent in part on nations which are Soviet-dominated or which have shown little comprehension of the issues underlying the Berlin question.

vii) The United Nations machinery would introduce the probability of unacceptable delays in the execution of any international guarantee.

viii) Any arrangement which included the relinquishment of Allied occupation rights in Berlin, unless it were obviously a step in the direction of German reunification, would be regarded by the world as a Western abandonment of Berlin (for example, if considered in connection with the Allied declarations of 1958 and 1959) and would thus probably have serious repercussions in Berlin and Germany and throughout NATO and other free world alliances.

3. New Contractual Basis for the Retention of Western Forces

a) Possible Proposal

It is theoretically possible (although very unlikely) the Four occupying powers could negotiate among themselves a new agreement, supplanting earlier agreements and precedents, which would restate explicitly the rights and responsibilities of the Four Powers with respect to Berlin, including access to Berlin.

b) Advantage of Seeking New Contractual Basis

i) Such an agreement would amount to an express reaffirmation by the Soviet Union of the right of the Western Powers to maintain their forces in Berlin.

ii) If thus confirmed, the idea of the continuation of an occupation regime in Berlin would appear less anachronistic to world opinion. The use of the word "occupation" might be avoided.

iii) It might be possible to include in an arrangement of this sort some provision for ratification by the Government or population of Berlin, thus strengthening the moral position of the occupation regime by showing that it enjoyed the consent of the governed.

c) Disadvantages of Seeking New Contractual Basis

i) An agreement which would confirm Western occupation rights is very unlikely. Even if Western occupation rights were reaffirmed, they would probably be reduced quantitatively. Specifically, it would probably be impossible to include provisions guaranteeing German access to Berlin.

ii) An agreement of this nature would probably have to have a shorter duration than any other type of new agreement.

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iii) The arrangement would undoubtedly be confined to West Berlin; the Soviets would thus have a role in the occupation of the Western Sectors while the Western Powers would be giving up their original rights to a corresponding role in the Soviet Sector.

iv) An almost certain Soviet requirement would be the severance of some of the most important ties between Berlin and the Federal Republic, conceivably jeopardizing the political and economic viability of West Berlin.

4. Modifications in Existing Situation without Changing Basis of Occupation

a) Possible Proposals

A great number of arrangements of this type are theoretically possible. Specific proposals which have been discussed are:

i) The Western proposals of July 28, 1959 at the Geneva Foreign Ministers' meeting; and

ii) Solutions "B" and "C" of the April 1959 London Working Group Report.

The German paper on "Germany and Berlin - Western Position and Tactics" (II WGO/5.2) contains suggestions, which have not yet been discussed, for a proposal which would contain fewer Western concessions and make more demands on the Soviets than the July 28, 1959 proposal.

b) General Considerations

Seeking an arrangement in this category would offer certain advantages in comparison with seeking a new status for Berlin or a new contractual basis for the occupation as discussed under B.2. and 3. above. These advantages are:

i) The validity of the occupation regime and the basic rights of the Allied Powers would not be put in question, even if the Western Powers advanced the proposal.

ii) As a tactical device, such a proposal might suffice to deter the Soviet Union from concluding a separate peace treaty with the "GDR" or, if such a treaty is concluded, from implementing it in a way to interfere with Western access to Berlin or the remaining freedom of circulation between West and East Berlin.

iii) If an arrangement of brief duration were envisaged, it might be possible to limit Western concessions to:

A) The abandonment of practices which have not proved effective in accomplishing Western aims in Berlin; and

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C) The abandonment of claims of rights to do certain things which the Western Powers would be unable to do in any case.

Additional advantages or disadvantages can only be discussed in the light of specific proposals.

c) Proposals of July 28, 1959

1) Advantages

A) This proposal has already been submitted to the Soviets and thus involves no risks in addition to those already incurred.

B) This proposal was, when made, acceptable to the Government and people of Berlin, although it was generally considered to represent the limit to which the Western Powers could go.

11) Disadvantages

A) Any new arrangement of brief duration might be regarded only as a period of grace by the Berlin population and by investors in Berlin.

B) Any declaration of readiness to reduce the Allied forces in Berlin might be regarded as the first step towards their eventual withdrawal in toto.

C) The renunciation of nuclear weapons for the Allied Forces in Berlin might provide the Soviets a pretext for claiming a right to inspect Allied traffic to Berlin.

D) A commitment to restrict propaganda would be a continued source of agreement and could help sap the Berliners' and the East Germans' spirit of resistance.

d) Solution "B" or "C" of London Working Group Report

1) Advantages

A) These proposals were designed to meet specifically the threat to freedom of access, and would minimize discussion of other aspects of the Berlin situation.

B) Rights of access would be frozen in their existing form.

C) Direct negotiations with the "GDR", which would imply de facto recognition, might be avoided.

11) Disadvantages

A) Solution "B" may have little chance of being accepted by the Soviets.

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B) In the case of solution "C", there would be difficulties in maintaining a modus vivendi which was based on a series of unilateral declarations rather than a negotiated agreement among parties.

C) Although the question of negotiation with the "GDR" would be evaded, the "GDR" would necessarily acquire a right or role in connection with Allied access by virtue of its control activities at the checkpoints and (in the case of Solution "C") the acceptance of its unilateral declaration.

D) This development would assist the "GDR" in its efforts to obtain international recognition, to make permanent the division of Germany, and to convince the East German population of the inevitability of Communist rule.

C. MINIMUM REQUIREMENTS FOR A MODUS VIVENDI IN BERLIN (This section is a liminary draft which has not been discussed.)

1. General Negotiating Principles

Any change in the current arrangements concerning Berlin which would lessen Western ability to maintain the freedom of the City must be counter-balanced by an advantage which will demonstrably provide protection for the City to at least the same extent as the right which is modified.

The counter-balancing protection need not be of the same nature as the modified rights: e.g., limitations on dissemination of propaganda might be exchanged for codification of access rights.

Under these principles it might be possible to avoid discussion of problems in the abstract and evolve a series of negotiating positions based upon concrete proposals.

Adoption of the principles would subject any proposal on Berlin to the following tests:

- a) Does the proposal immediately or potentially affect existing rights respecting Berlin or access thereto?
- b) If so, what are the probable consequences of accepting the proposal?
- c) If the consequences are adverse, what counter-advantages are presented by the proposal or should be required in order to protect the position of Berlin?

The general objective of any new arrangement is to ensure the security and freedom of Berlin as well as possible for as long as possible. The minimum requirements for accomplishing this objective will, however, vary somewhat according to whether a new arrangement provides for a new status or maintains the occupation regime.

2. Basic

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2. Basic Requirements for Any New Arrangement

a) Political Freedom - A modus vivendi must assure the continuance of a constitutional government based on free elections and guaranteeing democratic process and civil rights.

b) Security - A modus vivendi requires an international guarantee of Berlin's integrity and its freedom of access, plus a security force adequate not only to maintain internal order but also to ensure the operation of the international guarantee.

c) Freedom of Access - A modus vivendi should if possible reduce existing obstructions to the free movement of persons and goods between Berlin and the West; at least it should maintain freedom of access at its present level.

d) Economic Viability - A modus vivendi must ensure that Berlin's economic life is maintained at least at present levels; in practical terms this means that Berlin must be a part of the economic area of the Federal Republic.

e) Unity of Germany and Unity of Berlin

i) Unity of Germany - A modus vivendi should avoid the creation of new obstacles to reunification. The "GDR" must not be recognized as a de facto regime, and the principal of continuing Soviet responsibility in Germany must be maintained. A modus vivendi must not prejudice Berlin's rôle as the future all-German capital.

ii) Berlin and Federal Republic - A modus vivendi must not sever the ties which exist between Berlin and the Federal Republic.

iii) Unity of Berlin - A modus vivendi should prevent any further erosion of the principle of the unity of Berlin. Where it is not possible to deal with the city as a whole, changes made within the Western Sectors to satisfy Soviet demands should be accompanied by changes within the Soviet Sector acceptable to the Western Powers.

f) Self-Determination - A modus vivendi must be acceptable to the people of Berlin.

g) Reduction of Tension - A modus vivendi should, to the extent possible, reduce the tension which arises as a result of Berlin's position between the Free and Communist Worlds.

3. Additional Requirements if Berlin's Status is to be Changed

a) Security - Some security force must be established which is an adequate substitute for the Allied occupation forces. An effective NATO guarantee must be assured.

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b) Recourse - There must be a method for expeditious settlement of disputes, including any interference with access or communications.

c) Freedom of Access - Rights of access and communications must be spelled out to ensure the maintenance of Berlin's political freedom and of its economy.

d) Duration - The new status must be either a step towards the reunification of Germany or valid until reunification.

4. Additional Requirements if the Occupation Regime is to be Maintained

a) The continuing validity of basic Allied occupation rights until changed or terminated with the consent of the Occupying Powers must be recognized, at least by implication.

b) Allied forces must be maintained at the appropriate strength to carry out their mission in Berlin.

5. Now Minimum Requirements are Met at Present

An important element of difficulty in the problem is that certain of the "minimum" requirements mentioned above are not being met at present and that it is becoming increasingly more difficult to maintain the status quo in the face of increasing Communist pressures. The existence of such a situation is an important part of the argument for seeking an agreement with the Soviet Union as discussed under A.2. above. For example:

a) Political Freedom - The legitimate government of Berlin is not allowed to exercise its authority in the Soviet Sector.

b) Freedom of Access - All surface traffic -- except that of the Allied Occupation Forces -- moves only with the permission and under the control of the "GDR". Harassment is chronic and some types of traffic are entirely blocked. Allied access is substantially dependent on continued Soviet compliance with existing arrangements.

c) Unity of Germany and Unity of Berlin - The separation of East from West Germany is almost complete, and only limited freedom of circulation remains between East and West Berlin. East Berlin has become "the capital of the GDR".

d) Self-Determination - The Berlin population's approval of the status quo tends to be obscured by the emphasis given to Allied occupation rights.

e) Reduction of Tension - Tension has been chronic in Berlin since 1946 and the situation has been critical since November 1958.

D. CONCLUSIONS

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D. CONCLUSIONS [This section is a preliminary draft which has not been discussed.]

1. There is little likelihood that the Western Powers may be able to strengthen their position in Berlin or, as long as the Berlin question is dealt with in isolation, to improve their negotiating posture significantly.
2. The immediate problem is thus an essentially tactical one of deterring or delaying unilateral Soviet action against Berlin.
3. If this tactic fails, the problem becomes one of estimating whether the greater risk lies in accepting a new arrangement which would entail compromises in the existing Western position or in attempting to maintain the status quo in the face of a Soviet-"GDR" peace treaty and increasing Communist pressures.
4. If the decision is taken to seek a new arrangement, the advantages and disadvantages of possible approaches can only be examined profitably in the light of concrete and complete proposals.
5. The minimum requirements of a modus vivendi can be set in a general way; i.e. the limits within which the Western Powers might negotiate can probably be fixed.
6. If feasible, there would be advantage in leaving it to the Soviet Union to take the initiative in proposing any new Berlin solution and to reveal the Western position only through responses to Soviet proposals.
7. The only type of new arrangement which appears to offer any possibility of being acceptable at this time would be one which would make only superficial or procedural changes while maintaining the essential features of the occupation regime.

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